

## Courtesy translation

**ANAS S.p.A. with sole shareholder  
HEAD OFFICE  
Via Moncambano, 10 – 00185 Rome**

### **MASTER AGREEMENT UNDER ARTICLE 2, PARAGRAPHS 82 ET SEQ. OF LAW DECREE NO. 262 OF 3 OCTOBER 2006, CONVERTED INTO LAW NO. 286 OF 24 NOVEMBER 2006, AS SUBSEQUENTLY AMENDED AND SUPPLEMENTED**

between **ANAS S.p.A.**, company with sole shareholder, tax code 80208450587 (“**ANAS**” or the “**Grantor**”) and **AUTOSTRADE PER L’ITALIA S.p.A.**, with registered office in Rome, via Bergamini, 50, tax code and VAT registration no. 07516911000 (the “**Concessionaire**”)

#### **THE ITALIAN REPUBLIC**

In 2007, in Rome, via Monzambano, 10, at Anas S.p.A.’s head office:

Mr Pietro Ciucci, born in Rome on 24 October 1950, in his capacity as legal representative and chairman of the board of directors of **ANAS - SOCIETÀ PER AZIONI**, with registered office in Rome, via Monzambano, 10, with a fully paid-up share capital of EUR 2,269,892,000, with Economic and Administrative Index (REA) no. 1024951, registered with the companies’ register of Rome, tax code 80208450587, VAT registration no. 02133681003, by virtue of the powers conferred on him by the articles of association

— on the one side —

Mr Giovanni Castellucci, born in Senigallia on 23 July 1959 and domiciled for the purposes of his office in Rome, in his capacity as legal representative and chief executive officer of **AUTOSTRADE PER L’ITALIA S.p.A.**, with registered office in Rome, via Bergamini, 50, with a share capital of EUR 615,527,000, fully subscribed as at the date of this agreement, registered with the companies’ register of Rome, tax code and VAT registration no. 07516911000, by virtue of the powers conferred on him by the board of directors on 5 October 2007

— on the other side —

The parties as represented above agree as follows.

#### **Recitals**

- *ANAS-Ente Nazionale per le Strade* and the company *Autostrade Concessioni e Costruzioni Autostrade S.p.A.* entered into an agreement on 4 August 1997 for the revision of the previous agreement entered into on 18 September 1968, agreement no. 9297, which was approved and enforced by Interministerial Decree No. 2890 of 12 October 1968, registered with the Court of Auditors on 21 February 1969, and subsequent additional agreements

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- regulating the concession to *Autostrade* of the construction and exercise of a motorway network approved by Law No. 729 of 24 July 1961 and Law No. 385 of 28 March 1968.
- The agreement entered into on 4 August 1997 was approved and enforced by Interministerial Decree No. 314/Segr. DICOTER of 4 August 1997, registered with the Court of Auditors with reservations on 16 April 1998.
  - *Ente Anas* and *Autostrade Concessioni e Costruzioni Autostrade S.p.A.* on 15 January 1998 entered into the first additional agreement amending the agreement entered into on 4 August 1997.
  - The first additional agreement was approved and enforced by Interministerial Decree No. 314/Segr. DICOTER of 9 February 1998, registered with the Court of Auditors with reservations on 16 April 1998.
  - *Ente Anas* and *Autostrade Concessioni e Costruzioni Autostrade S.p.A.* on 29 March 1999 also entered into the second additional agreement amending the agreement entered into on 4 August 1997.
  - *Ente Anas* and *Autostrade Concessioni e Costruzioni Autostrade S.p.A.* on 21 May 1999 also signed the third additional agreement amending the agreement entered into on 4 August 1998.
  - The second and third additional agreements were approved and enforced by Interministerial Decree No. 260/Segr. DICOTER of 31 May 1999, registered with the Court of Auditors on 10 August 1999.
  - *Ente Anas* was changed into *Anas S.p.A.* by Law Decree No. 138 of 8 July 2002, converted with amendments into Law No. 178 of 8 August 2002
  - *Ente Anas* changed into *Anas S.p.A.* on 19 December 2002 and, on the same date, *Anas S.p.A.* and the Ministry of Infrastructure and Transport entered into an agreement granting *Anas S.p.A.* the functions under Article 2, paragraph 1, letters from a) to g) and under Legislative Decree No. 143 of 26 February 1994, in accordance with Article 7, paragraph 2 of Law Decree No. 138 of 8 July 2002, converted with amendments into Law No. 178 of 8 August 2002.
  - *Anas S.p.A.* and the company *Autostrade Concessioni e Costruzioni Autostrade* on 23 December 2002 entered into the fourth additional agreement amending the agreement entered into on 4 August 1997, which was approved – in accordance with Article 21, paragraph 7 of Law Decree No. 335 of 24 December 2003, converted with amendments into Law No. 47 of 27 February 2004 – by Decree No. 294 of 11 March 2004 issued by the Ministry of Infrastructures and Transport and the Ministry of Economy and Finance, registered with the Court of Auditors on 20 May 2004.
  - *Autostrade Concessioni e Costruzioni Autostrade S.p.A.*, through the deed of conferment of the business unit dated 30 May 2003, archive no. 42734, file no. 11355 – Notary Mariconda – transferred to *Autostrade per l'Italia S.p.A.* (also “**Autostrade**”), with effect from 1 July 2003, the business unit represented by the activities already carried out under the concession and its related secondary support activities, as further defined in the deed and, consequently, *Autostrade* took over all the assets and liabilities relating to the transferred business unit.
  - *Anas S.p.A.* and *Autostrade* entered into an agreement on 24 November 2003, which was registered with the Italian tax authority – Rome office on 26 November 2003, set 3, no. 19639, whereby *Anas S.p.A.* acknowledged that *Autostrade* had taken over the role of

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*Autostrade Concessioni e Costruzioni Autostrade S.p.A.* in the agreement of 4 August 1997 and in the subsequent additional agreements.

- A further additional agreement was signed on 22 December 2005 but never entered into force.
- Law Decree No. 262 of 2006 entered into force on 3 October 2006 and was converted with amendments into Law No. 286 of 24 November 2006, amended by Article 1, paragraph 1030 of Law No. 296 of 27 December 2006, which introduced new rules concerning motorway concessions.
- The CIPE on 15 June 2007 approved the directive concerning the economic regulation of the motorway sector under the above mentioned Law No. 286/2006, which replaces previous Directive No. 1 of 26 January 2007.
- The Ministry of Infrastructure, together with the Ministry of Economy and Finance, on 30 July 2007 issued the Directive “Criteria of authorisations for amendments to motorway concessions deriving from a European concentration” (Official Gazette of the Italian Republic No. 224 of 26 September 2007).
- Article 2, paragraph 82 et seq. of Law Decree No. 262 of 3 October 2006, which was converted with amendments into Law No. 286 of 24 November 2006, set out that: “when the financial plan is first updated or the Agreement first revised, and when the financial plan is periodically updated or the Agreement subsequently periodically revised, conventional provisions in force and those resulting from the updating or revision must be included in a single agreement, for acknowledgement purposes for the parties other than those deriving from the updating or revision”, which replaces the original agreement and its addenda for all intents and purposes.
- The parties have agreed on this agreement for the purpose of implementing the above regulation.
- The parties acknowledge and agree, given the contractual structure that will be given to this agreement and, particularly, the Concessionaire’s guarantees to fulfil the obligations undertaken, that *Autostrade per l’Italia* holds autonomously and exclusively the concession and is the only party liable to ANAS and the competent authorities for the compliance with this agreement and any amendment to the related relationship.

### Now, therefore

ANAS S.p.A. (the “**Grantor**”), represented by Mr Pietro Ciucci, and *Autostrade per l’Italia* S.p.A. (the “**Concessionaire**”), represented by Mr Giovanni Castellucci, agree as follows.

### Section I- Administrative and contractual section

#### Article 1 – Introduction

1.1. The recitals and annexes are an integral part of this agreement.

1.2. This agreement, drawn up in accordance with Article 2, paragraph 82 et seq. of Law Decree No. 262 of 3 October 2006, converted with amendments into Law No. 282 of 24

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November 2008 and then amended by Law No. 296 of 27 December 2008, exclusively governs the relationship between the Grantor and the Concessionaire, starting from the date of registration of the Interministerial decree of approval. Consequently, as of that date, the agreement of 4 August 1997 and the additional agreements of 15 January 1998, 29 March 1999, 21 May 1999, 23 December 2002 and 24 November 2003 cease to have effect.

1.3. This agreement is an acknowledgment of the agreement entered into on 4 August 1997 and of the subsequent additional agreements of 15 January 1998, 29 March 1999, 21 May 1999 and 23 December 2002. It is also a deed of novation of these agreements, for the agreed implementation, at the terms contained therein, of Article 2, paragraph 93 et seq. of Law Decree No. 262 of 3 October 2006, converted with amendments into Law No. 282 of 24 November 2006, as subsequently amended, and of the CIPE Directive of 15 June 2007.

### Article 2 – Subject of the Agreement

1. This agreement governs the relationship between the Grantor and the Concessionaire regarding the construction and management of the following motorways, which were granted by the previous agreements entered into by the Grantor and the Concessionaire:

Name	Km
A1 Milan - Naples	803.50
14 Milan - Brescia	93.50
A7 Genoa - Serravalle	50.00
A8 Milan - Varese	45.30
Diramazione A8/A26	24.00
A9 Lainate - Chiasso	32.40
A10 Genoa - Savona	45.50
A11 Florence - Pisa Nord	81.70
A12 Genoa - Sestri Levante	48.70
A12 Roma Civitavecchia	65.40
A13 Bologna - Padua	127.30
A14 Bologna - Taranto (compresa	781.40

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diramazione per Ravenna)	
A16 Napoli - Canosa	172.30
A23 Udine - Tarvisio	101.20
A26 Genoa Voltri - Gravellona Toce	244.90
A27 Venice Mestre - Belluno	82.20
A30 Caserta - Salerno	55.30
<b>Total</b>	<b>2854.60</b>

2. The Concessionaire is assigned all the activities and tasks necessary to manage the above motorways and, under Article 14 of Law No. 531 of 12 August 1982, the planning and execution of the adjustment works required to meet traffic safety requirements and maintain the service level. The Concessionaire is also assigned, under Article 5 of Law No. 531 of 12 August 1982, the planning and execution of works to adjust the road conditions to reach the tunnels or the border crossing or works relating to the road conditions concerning the large urban areas agreed between the Grantor and Concessionaire. The Concessionaire is in charge of the following works:

### A) STRENGTHENING OF THE A1 MILAN-NAPLES MOTORWAY

Motorway stretch: Bologna - Casalecchio - Incisa

Aa) Casalecchio - Sasso Marconi

Ab) Sasso Marconi - La Quercia

Ac) La Quercia - Aglio

Ad) Aglio - Barberino

Ae) Barberino - Florence Nord

Af) Florence Nord - Florence Sud

Ag) Florence Sud - Incisa

Ah) Construction of the access routes in Florence

Ai) Land management: within the Emilia Romagna and Tuscany regions:

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### Ai.1) Works concerning ordinary road conditions:

Ai.1.1.) Construction of the Firenzuola motorway link-road

Ai.1.2.) Strengthening works and environmental insertion works in the Valle di Setta

### Ai2) Environmental and landscape works within the Emilia Romagna region:

Ai.2.1) Regulation of watercourses

Ai.2.2) Intermunicipality park along the Reno river

Ai.2.3.) Environmental recovery and enhancement of the Lungo Setta River

Ai.2.4.) The Monte di Sole Park

Ai.2.5.) Environmental recovery and enhancement of the ridge

Ai.2.6.) Widespread environmental and landscape enhancement

Ai.2.7) Works for the general fruitive enhancement of the Setta river valley

Ai.2.8) Recovery of cultural and historical heritage

Ai.2.9.) Stabilisation of unsteady slopes

Ai.2.10.) Completion of technology networks

### Ai3) Environmental and landscape actions within the Tuscany region:

Ai.3.1.) Firenzuola Municipality - Piano Cave

### Ai4) Further strategic actions for the economic and social development of the Emilia Romagna and Tuscany regions:

Ai.4.1.) Restructuring and strengthening of the water and sewage system

Ai.4.2.) Regulation and enhancement of watercourses

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Ai.4.3.) Water-geological arrangement and agro-forestry enhancement and recovery

Ai.4.4.) Recovery of historical and cultural heritage

Ai.4.5.) Optimisation of the network

### B) REMAINING INVESTMENTS CONCERNING THIRD AND FOURTH LANES

Ba) A1 motorway

Ba1) Motorway stretch: Modena Brennero (A22) - Bologna Borgo Panigale (A14)

Complementary works

Ba2) Motorway stretch: Sasso Marconi - La Quercia

Completion lot no. 4 and complementary works

Ba3) Motorway stretch: Orte - Fiano Romano

Completion stretch C

Ba4) Motorway section: Rome-Naples

Widening to three lanes of the Marano and Tufano viaducts

### C) FURTHER INVESTMENTS

These are works concerning the modernisation and renewal of the network under concession.

The investments that fall under this heading, concern:

1. THE DEVELOPMENT OF THE SERVICE AREAS AND BUILDINGS WHERE THE ACTIVITIES ARE CARRIED OUT
2. STATIONS, JUNCTIONS AND REMAINING INVESTMENTS ON THE NETWORK

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3. THE ADJUSTMENT AND DEVELOPMENT OF THE MOTORWAY NETWORK, THE DEVELOPMENT OF THE LOCAL SYSTEM FOR REACHING THE MOTORWAY NETWORK, THE IMPROVEMENT OF ACCESS TO THE PORT HUBS AND MINOR INVESTMENTS INCLUDING AUTOMATISED STATIONS
4. THE ACOUSTIC RECOVERY PLAN (up to the amount provided under the fourth additional agreement)
5. THE IMPROVEMENT OF SAFETY STANDARDS
6. TECHNOLOGICAL IMPROVEMENTS TO THE PLANTS
7. FURTHER CAPITALISED IMPROVEMENT AND MAINTENANCE ACTIONS

In this regard, the following works have already been identified:

### Ca) A1 motorway

- Ca1) The new Caprara di Campegine junction
- Ca2) The adjustment of the Ceprano junction
- Ca3) The new Maria Capua Vetere junction and station
- Ca4) The widening of the Reggello Ovest service area
- Ca5) The widening of the Prenestina Est service area
- Ca6) The widening of the Teano est/ovest service areas
- Ca7) The widening of the San Nicola service area
- Ca8) The widening of the San Zenone est/ovest service areas
- Ca9) The widening of the Cantagallo est/ovest service areas
- Ca10) The widening of the San Martino est/ovest service areas
- Ca11) The widening of the Lucignano ovest service area
- Ca12) The widening of the La Macchia ovest service area

### Cb) A4 motorway Milan-Brescia

- Cb1) The widening of the Brianza nord service area



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Cb2) The widening of the Lambro sud service area

Cb3) The widening of the Valtrompia nord service area

Cb4) The widening of the Sebino nord/sub service areas

Cc) A7 motorway Genoa-Saravalle

Cc1) The adjustment of the Busalla junction

Cd) A8 motorway Milan - Laghi

Cd1) The widening of the Villoresi est/ovest service area

Ce) A11 motorway - Florence Mare

Ce1) The new Capannori junction

Cf) A13 motorway Bologna-Padua

Cf1) The widening of the Po ovest service area

Cf2) The widening of the San Pelagio est/ovest service area

Cg) A14 motorway Bologna-Bari-Taranto

Cg1) The Giulianova junction

Cg2) The widening of the Metauro ovest service area

Cg3) The widening of the Esino est/ovest service area

Cg4) The widening of the Sillaro est service area

Cg5) The widening of the Santerno est/ovest service area

Cg6) The widening of the La Pioppa est service area

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Cg7) The widening of the Murge ovest service area

Cg8) The widening of the Bevano ovest service area

Cg9) The widening of the Montefeltro est service area

Cg10) The widening of the Chienti ovest service area

### Ch) Works under Article 14

Ch1) A1 - The construction of the new Arezzo junction and the link with the “strada dei due mari” and the link roads

Ch2) A1 - The new Bazzanese road

Ch3) A1 - The S. Cesario link road

Ch4) A1 - The improvement of the local systems for reaching the A1 Motorway, the junctions of Barberino-Calenzano-Florence/sud-Incisa through works concerning SP8-SS67-SS69-SP34 - roads in support of the industrial area of Calenzano and Rignano

Ch5) A4/A8-A9 Rho-Monza - first stretch

Ch6) A10 - The roads for reaching the Voltri harbour district

Ch7) A1 - The new Crespellano junction (formerly La Muffa)

Ch8) A12 - The local road conditions and the strengthening of road access to the Lavagna motorway tollgate

Ch9) A12 - The Civitavecchia ring-road

Ch10) A14 - The Bologna ring-road

Ch11) A14 - The improvement of the road conditions for reaching the Pedaso tollgate

Ch12) A14 - New roads from the P.S. Elpidio tollgate in the direction of Fermo, along the Tenna river

### D) WORKS ALREADY PROVIDED FOR UNDER THE FOURTH ADDITIONAL AGREEMENT

Da) The A1 Milan-Naples motorway

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Da) The motorway stretch Fiano-GRA. The widening of the following stretches with a fourth lane:

Da1) Fiano Romano-Settebagni station

Db) A4 Motorway Milan-Bergamo-Brescia

Db1) The widening with a fourth lane of the motorway stretch Milan Est- Bergamo

Db2) The adjustment of the existing bridges Adda and Brembo

Dc) A9 motorway Lainate-Como-Chiasso

Dc1) The widening with a third lane of the link between A8/A9 to Como Sud, Lainate-Como Grandate stretch

Dd) A14 motorway Bologna-Bari-Taranto

Dd1) The Rimini Nord-Pedaso stretch. The widening with a third lane of the following stretches:

Dd1.1.) Rimini Nord-Cattolica

Dd1.3.) Cattolica-Fano

Dd1.4.) Fano Senigallia

Dd1.5.) Senigallia-Ancona nord and the Marina di Monte Marciano junction

Dd1.6.) Ancona nord-Ancora sud

Dd1.7.) Ancona sud-P.S. Elpidio 1st stretch

Dd1.8.) Ancona sud-P.S. Elpidio 2nd step and the Porto S. Elpidio junction

Dd1.9.) P.S. Elpidio-Pedaso 1st stretch

Dd1.10) P.S. Elpidio-Pedaso 2nd stretch

Dd1.11.) Lot 0 preparatory works on paving

De) A10 motorway Genoa-Savona, A7 motorway Genoa-Serravalle and A12 motorway Genoa-Sestri Levante

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The widening and strengthening of the following stretches:

De1) Gronda di Ponente and the link between A7/A10/A12

De2) San Benigno junction

De3) Rapallo tunnel

Df) A share of the works concerning the roads leading to the Rho-Pero exhibition centre (Milan)

Dg) A1 motorway - the Castelnuovo di Porto junction

Dh) A1 motorway - the Guidonia junction

Di) A13 motorway - the Padua industrial area junction and the link between the A13 and A4 motorways at 101+093 km

Dl) A14 motorway - the Rubicone junction

Dm) A13 motorway - the Villa Maranza junction

Dn) A1 motorway - the Ferentino junction

Do) A30 motorway - the Maddaloni junction

Dp) The safety plan concerning the tunnels

E) NEW REMUNERATED INVESTMENTS IN ACCORDANCE WITH CIPE RESOLUTION NO. 39 OF 15 JUNE 2007

1 Further acoustic recovery works in addition to those under the letter C 4 other investments above, as mentioned in the economic and financial plan.

3. The following annexes are an integral part of this agreement:

A) Motorway toll rates.

B) Method for determining the “X” component investments concerning the rate adjustment formula and “K” component mentioned under CIPE Resolution No. 39 of 15 June 2007.

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- C) Quality indicators.
- D) Update to the rates.
- E) Financial plan.
- F) Classification of operations:
  - F1) ordinary maintenance; and
  - F2) improvement of infrastructure.
- G) Service areas.
- H) Criteria for determining traffic estimates.
- I) Declaration under Article 5, paragraph 6, of the Ministry Decree No. 283/98.
- J) List of the preliminary, final and executive plans that, even if not materially annexed to the Agreement, are an integral part of it.
- L) Criteria for quantifying the financial benefits concerning the delayed investments and related destination mode.
- M) Time schedule of the works.
- N) Technical specifications for the enforcement of sanctions and penalties.
- O) Financial soundness requirements.
- P) Criteria for quantifying the financial and economic benefits depending on the variances caused by increased traffic.
- Q) List of activities that are not subject to the rules of the contracting authority.

### **Article 3 – Concessionaire’s obligations**

The Concessionaire undertakes, under its own responsibility and at its own expense, to manage the motorways referred to in Article 2 and to construct the links and junctions and perform other works concerning the granted motorways for the entire duration of the concession.

More specifically, the Concessionaire undertakes to:

- a) carry out the technical management of the granted infrastructures;
- b) ensure the infrastructures granted remain operational by carrying out the maintenance and timely repair thereof;

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- c) organise, maintain and promote the breakdown service;
- d) improve the motorway service by promoting instrumental and auxiliary activities, which are mainly or exclusively provided by third parties to the users of the motorways granted under concession;
- e) detect and inform the Grantor of the quality indicators listed in Annex C and agree with the Grantor on the introduction of any new sectorial quality indicators based on objective and verifiable surveys, with the purpose of applying the penalties referred to in Annex N;
- f) plan and enter into the public works contract with the contractor selected in accordance with Article 33, execute and bear the inspection charges, and carry out other additional activities concerning the network adjustment works, including the construction of additional lanes, different links and link roads that are required to ensure traffic safety or to maintain the service level and to adjust the conditions of the roads leading to existing tunnels and border crossings and of roads that service large urban areas, as specified in the financial plan under Article 11;
- g) submit to the Grantor's examination, by the end of November of each year, a programme of the ordinary maintenance works and a programme of the network improvement works that the Concessionaire will carry out the following year. The classification of these works is listed in Annexes F1 and F2 to this agreement;
- h) submit to the Grantor, for its approval, in addition to the projects mentioned in letter f) of this article, the extraordinary maintenance projects, i.e., all the projects for works that do not fall under the works mentioned in letters f) and g);
- i) carry out, in accordance with the conditions set out by the Grantor, the statistical surveys concerning traffic levels;
- j) keep, in addition to the standard keeping of and updating of the general accounting records, in accordance with the laws in force, the analytical accounting records relating to each motorway under concession concerning the related costs and revenues, for the construction, maintenance and management, to ensure, among other things, a proper breakdown and allocation thereof in relation to each activity carried out, in compliance with the guidelines contained in Article 2, paragraph 86, letter c) of Law Decree No. 262/2006, as subsequently amended and supplemented, which will be given by the Grantor, as explained in the Article 7, letter c) below;
- k) keep different analytical accounting records for any other activities carried out that do not relate to the concession, and send the related data to the Grantor;
- l) carry out an assessment, in accordance with Article 2426, no. 4, of the Italian Civil Code, of each fixed assets consisting in shareholdings in subsidiaries or affiliates in accordance with Article 2359 of the Italian Civil Code, providing in the appropriate section of the explanatory notes to the financial statements details of costs, revenues and investments, including details of the company structure of the Grantor itself, concerning the transactions the Grantor entered

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into with its parent companies, with its parent companies' parent companies, and with subsidiaries and affiliates. If the Concessionaire adopts the IAS/IFRS international accounting standards, the equity valuation of the shareholdings will be carried out in accordance with the principles above;

m) supply on a three-monthly basis, even using electronic means, in accordance with Article 2, paragraph 83, letter e) of Law Decree No. 262/2002, as subsequently amended and supplemented and in accordance with Article 7 of this agreement, the information concerning the activities under the concession, their costs and revenues, the Concessionaire's subsidiary and affiliate relationships with other companies/subsidiaries and affiliates, and the information concerning the exercise of the powers listed in Article 33, paragraph 1;

n) certify the financial statements, in accordance with Article 11, paragraph 5 of Law No. 498/1992, as subsequently amended and supplemented, using an auditing company, even if it is an unlisted company, selected in accordance with the legislation in force;

o) maintain appropriate financial soundness requirements as listed in Annex O;

p) provide for and keep in its articles of association appropriate measures to prevent a conflict of interest arising for the directors, and provide for and ensure that these directors fulfil specific professionalism and reputation requirements, and independence requirements for at least some of them;

q) award the contracts concerning works, services and supplies in accordance with the laws in force, as may be supplemented by interpretative documents, and therefore:

1) act, in all respects, as a contracting authority in accordance with Article 85, letter c) of Law Decree No. 262/2006, as subsequently amended and supplemented, in the awarding of works, supplies and services directly relating to the management of the granted motorways – save what is provided in Annex Q – and, in this role, award the related contracts, in compliance with the code of public contracts relating to works, services and supplies under Legislative Decree No. 163 of 12 April 2006, as subsequently amended;

2) submit the schemes of the calls for tenders concerning the award procedures mentioned under point 1 above to the Grantor for its approval. The Grantor must issue its decision within 30 days from receipt. If this term expires without the Grantor having provided a response, Article 20 of Law No. 241 of 7 August 1990 applies;

3) award the contracts relating to the tender procedures referred to in the points above, through Tender Committees appointed by the Infrastructure Minister, without prejudice to the supervisory powers of the Authority under Article 6 of Legislative Decree No. 163 of 12 April 2006, as subsequently amended and supplemented;

4) award the services regarding the distribution of carbon lubricants and the commercial and recreational activities carried out in the service areas, in derogation from what is set out above, in accordance with the principles contained in Article 1, paragraph 939 of Law No.

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296 of 27 December 2006, which are listed below, and in accordance with any guidelines that are issued by the Italian Competition Authority:

- prior check of the fulfilment of the technical, organisational and economic requirements of the competitors to ensure an adequate level and regularity of the service, in accordance with the sector-specific laws and regulations;
  - assessment of the bids submitted by the competitors with the purpose of enhancing the efficiency, quality and variety of the services, the investments in line with the duration of the contracts to be awarded and the plurality of the trademarks involved. The tender procedure must ensure that more importance is given to the technical-commercial project than to the economic conditions proposed; and
  - contractual models suitable to ensure the bid is competitive in terms of quality, availability of the services and prices of the oil and non-oil products; and
- 5) prohibit participation in the tender procedures for the assignment of public works to companies, in any way connected with the Grantor, that carried out the related planning of the works;
- r) communicate no later than 28 February of each year the amount to be set aside in accordance with letter t) of this article below;
- s) keep a provision in the Concessionaire's articles of association whereby an ANAS official is required on the Concessionaire's board of auditors;
- t) set aside or bind, if there is a delay in the execution of the works referred to in Annex L compared to the timing provided in that annex, special reserves of the net assets, corresponding to the consequent financial benefits for the Concessionaire in compliance with the terms and conditions contained in Article 12 below;
- u) develop the preliminary planning of the development of some stretches of the motorway network under concession in compliance with the terms and conditions contained in Article 15 below;
- v) have access to, for every financial year, non-revocable credit lines/loans with at least a 12-month term, or to have funds available tied up in the realization of the investments referred to in Annex O of this agreement, for a total amount at least corresponding, at the end of each financial year, to the variance, if negative, between the final balance of the investments and the estimates referred to in Annex O and in accordance with the terms and conditions contained in that annex. With regard to the activities for which the Grantor has not approved the final plan after 12 months from the date indicated in the time schedule in Annex M as the deadline for the Grantor's approval in this respect, the amounts that have, in any case, contributed to determining the amount of the credit lines, accrued on that date, remain fixed. After the final plan is approved, for the purposes of calculating the credit lines, the forecast of the investments still to be made regarding the related initiative is automatically postponed for a period corresponding to the period between the date of approval of the final plan and the date



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of the approval set out in the time schedule. When the 2013–2017 financial plan is updated, in accordance with Article 11, if the Grantor has not approved the final plans for some of the “works of the fourth additional agreement”, the amounts set for those works will correspondingly reduce the amounts of the credit lines/loans opened and/or the amount of funds available that may be tied up or the guarantees arranged;

z) set aside in an appropriate restricted fund the economic and financial benefits arising from the variation of the traffic conditions, in compliance with the terms and conditions contained in Article 13;

aa) not grant a loan or issue guarantees – unless strictly aimed at obtaining indirectly, through intra-group loans, additional financial resources at market conditions that are more efficient and functional to the exercise of the activities that fall under the corporate purpose – to the parent companies, subsidiaries or affiliates in accordance with Article 2359 of the Italian Civil Code or to affiliates or subsidiaries of the parent company itself, except for any subsidiaries or affiliates that operate, in accordance with Article 2359 of the Italian Civil Code, in the different infrastructure sector, without prejudice to the maintenance of the financial soundness requirements referred to in Annex O. This is, in any case, without prejudice to the loans that have already been granted and guarantees that have already been issued as at the effective date of this agreement. The Concessionaire must immediately notify the Grantor if any of the cases mentioned above occurs; and

bb) request the CIPE to provide the “Single Project Code”, in accordance with Article 11, paragraphs 1 and 2 of Law No. 3/2003 and for the purposes provided under Article 1, paragraph 5 of Law No. 144 of 17 May 1999, for each of the works referred to in the above mentioned regulations and specify in all administrative and accounting documentation relating to the works that this obligation has been fulfilled.

2. The Concessionaire, in compliance with the Grantor’s guidelines, will update the computerised roads register (“*Catasto Stradale Informatizzato*”) (Article 13, paragraph 6 of Legislative Decree No. 285 of 30 April 1992, “New Highway Code”).

3. With regard to the police service, the construction and maintenance of the “barracks” (“*casermette*”), which are an integral part of the motorways’ appurtenances, are borne to the Concessionaire.

4. The Concessionaire, if it considers it appropriate and necessary for traffic safety, will bear the expenses connected with particular performances exceeding the ordinary service that are carried out by the police force, subject to the Grantor’s prior consent.

5. More specifically, the Concessionaire will immediately notify the Grantor if it discovers that works have been carried out within the motorway buffer zone, in compliance with the terms set out by law.

6. Following the expiry of the concession, the Concessionaire will transfer the ownership of the motorways granted under concession and the related appurtenances to the Grantor free of

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charge, in good condition and free from any encumbrances.

7. The Concessionaire will allow the Grantor to use the motorways and related appurtenances to install cables. The terms and conditions of this use, which is free of charge, solely for internal organisational purposes, directly carried out and connected to the management of the roads, excluding the right to grant third parties, in any form, the right to use the positioned cables, without prejudice to the refund of any cost in any way borne by the Concessionaire, are provided in specific technical specification in accordance with the above.

### **Article 4 – Duration of the Concession**

1. This Concession will terminate on 31 December 2038.
2. The Concessionaire transfers to the Grantor, once the concession terminates, the ownership of the motorways granted under concession and their appurtenances free of charge, in good condition and free from any encumbrances.
3. The succession between the incoming Concessionaire and the outgoing Concessionaire once the concession terminates is regulated by Article 5 of this agreement.

### **Article 5 – Relationships concerning the succession between the incoming Concessionaire and the Concessionaire**

Once the Concession terminates, the outgoing Concessionaire is obliged to continue the ordinary management of the motorways and their appurtenances until the management is transferred.

As to any new works that are agreed after this agreement is entered into, but not yet amortised, the outgoing Concessionaire is entitled to receive an indemnity of these investment amounts from the incoming Concessionaire.

### **Article 6 – Contributions**

1. The parties agree that the financial plan attached to this agreement includes, among the financial sources, the following public contributions that have already been agreed:
  - (i) ITL 20 billion annually (corresponding to EUR 10,329,137.98), allocated by Article 2 of Law No. 662 of 23 December 1996 for the period 1997–2016; and
  - (ii) ITL 100 billion (corresponding to EUR 51,645,689.90) for 1997, ITL 50 billion (corresponding to EUR 25,822,844.95) for the period 1998–1999, ITL 55 billion (corresponding to EUR 28,405,129.44) for 2000, and ITL 75 billion (corresponding to EUR 51,645,689.90) annually for the period 2013–2017, in accordance with Law No. 135/97 and Law No. 354/97.
2. The payment methods of the above contributions are defined by memorandums of understanding signed by the parties on 3 August 2000 and 27 April 2005.
3. The financial plan also includes, among other contributions, a public contribution of EUR 40,492,510 for the planning and carrying out of the “quota of the works for the accessibility to the Polo Fieristico of Rho-Pero (Milan)” regulated by Article 2, paragraph 2 of this agreement. This contribution will be paid by the Grantor, in compliance with the

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plan of economic validation attached to the financial plan, using payment methods that will be set out in a specific memorandum of understanding.

### **Article 6 *bis* – Guarantees**

1. The Grantor undertakes, vis-à-vis the Concessionaire, to obtain a professional civil liability policy from the planner or planners in charge of the planning, within the terms, manners and methods under Article 11 of Legislative Decree No. 163 of 2006 and the related implementing regulation.
2. The Concessionaire undertakes, vis-à-vis the Grantor, to obtain a guarantee from the person who carries out the contracts, within the terms, manners and methods under Article 113 of Legislative Decree No. 163 of 2006 and the related implementing regulation, without prejudice to Article 40, paragraph 7 of Legislative Decree No. 163/2006.
3. The above guarantee is released in accordance with the law.

### **Article 6 *ter* – Liability to third parties and insurance companies**

1. The Grantor assumes liability for damage deriving from events that can be ascribed to the Grantor that were caused to persons and things, regarding both: (a) the Grantor's employees and materials, and (b) third parties, as a consequence of the execution of the works and related activities, thereby releasing the Concessionaire from any liability.
2. The Grantor also assumes liability for damage suffered by the Concessionaire as a result of damage to or total or partial destruction of the installations and works, including any pre-existing damage or destruction, that occurred during the execution of the works.
3. The Grantor – under applicable law – takes out an insurance policy in favour of the Concessionaire for direct and indirect damage in the execution of works until the date the temporary inspection certificate is issued. The maximum amount insured and the limits of the insurance policy will be proportional to the value of each tender procedure awarded.

### **Article 7 – The Grantor's powers**

1. The Grantor, under the scope of the tasks referred to in Article 2, paragraph 1, letter d) of Legislative Decree No. 143 of 26 February 1994, as subsequently amended and supplemented, may:
  - (a) ask for information and carries out controls, with the powers of inspection, access, acquisition of documents and useful news relating to the compliance with obligations under this agreement and Article 11, paragraph 5, of Law No. 489 of 23 December 1992, as subsequently amended, and in compliance with the Grantor's own regulations;
  - (b) issue instructions concerning the supply of services by the Concessionaire, by defining, in particular, the general quality levels of the services and the specific quality levels of each service to be guaranteed to the user, in accordance with the Concessionaires and representatives of the users and consumers;
  - (c) issue instructions for accounting and administrative unbundling and verifies the

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costs of each service to ensure, among other things, that they are properly broken down and allocated according to the functions carried out, thus comparing the services and the similar costs in other countries and to ensure that the data is publicised;

- (d) impose, unless the action constitutes a crime, according to the methods listed in Article 29 below, administrative pecuniary fines of no less than EUR 25,000 and no more than EUR 150 million, in the following cases: (i) the Concessionaire fails to comply with the obligations contained in this agreement and in Article 11, paragraph 5 of Law No. 498 of 23 December 1992, as subsequently amended, and to comply with the Grantor's own regulations; (ii) the Concessionaire fails to comply with the requests for information or requests relating to controls; and (iii) the information and documents obtained are untruthful. Article 16 of Law No. 689 of 24 November 1981 cannot be applied to the above fines. In the event of repeated violations, the Grantor can suggest that the competent ministry suspend or revoke the concession; and
- (e) notify the Italian Competition Authority of the existence of possible violations of Law No. 287 of 10 October 1990, in relation to the acts and behaviour of the companies subject to the Grantor's control and of companies to which works, supplies and services were awarded and are carried out.

### **Article 8 – Assessment of serious breaches by the Concessionaire**

If the Grantor ascertains that a serious breach of the obligations contained in Article 9 of this agreement has occurred, it informs the Concessionaire of the details of its assessment and sets a suitable term by which the Concessionaire must remedy its breach or provide its justifications. If this term expires and the Concessionaire has not fulfilled or submitted its justifications, or the Grantor has not accepted the justifications, the Grantor will begin the proceedings regulated by Article 9 below.

### **Article 9 – Revocation of the concession**

1. The concession is declared revoked in the proceedings referred to in Article 9 below if, once the steps detailed in Article 8 above have been carried out, the Concessionaire continues to fail to fulfil the obligations under letters V), f), g), h), b), c) of paragraph 1 of Article 3. The Concessionaire's serious breach of the obligations under letter f), paragraph 1 of Article 3 regarding the execution of works is evident when the Concessionaire fails to voluntarily start or arbitrarily suspends the execution of the works, it being understood that, by contrast, any delay in the execution of the works that is attributable to the Concessionaire will result only in the application of the penalties mentioned in Article 30 below.
2. Once it is ascertained that the Concessionaire is continuing to fail to comply with the above obligations, the Grantor objects to this continued breach with the Concessionaire using the methods under Article 7 of Law No. 241 of 7 August 1990, as subsequently amended, demanding in a formal notice that it comply within a reasonable term of no less

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than 90 days that the Grantor simultaneously will set for the Concessionaire the formal notice. Within the same term, the Concessionaire can exercise the rights under Article 10 of Law No. 241 of 7 August 1990, as subsequently amended. If the Concessionaire fails to comply with the formal notice within the term assigned or if any counter-claims submitted by the Concessionaire are rejected, the Grantor sets a further term of no less than 60 days to fulfil the demands of the formal notice, under penalty of revocation of the concession. If the Concessionaire fails to comply with the obligations within the final term set, the Grantor requests that the Ministry of Infrastructure, together with the Ministry of Economy and Finance, issue an order that the concession be revoked. The Concessionaire remains obliged to continue the ordinary management of the motorways until this management is transferred.

3. The Grantor takes over all of the Concessionaire's assets and liabilities and those connected with this agreement that are in force at the time the concession is transferred. The transfer is subject to the Grantor's payment to the revoked Concessionaire of an amount corresponding to the current net revenues deriving from the management, foreseeable from the date of the concession revocation order until the date the concession expires, net of the related costs, charges, investments and taxes foreseeable in the same period, discounted at a market rate of return that is comparable and increased by the taxes that the Concessionaire must pay on the Grantor's receipt of the amount, reduced by:
  - (i) the net financial borrowing assumed by the Grantor as at the date of the transfer; and
  - (ii) the cash flow from the management received by the Concessionaire when performing the ordinary management from the date of the concession revocation order until the date the agreement is transferred.

The amount calculated as mentioned above is reduced by 10% as a penalty, save any greater damage suffered by the grantor for any amount exceeding the above fixed penalty.

4. If the parties fail to reach an agreement regarding the calculation of the above amount, the Grantor has the right to begin, in order to calculate the amount, one of the conciliation procedures provided by applicable law. If the Grantor does not exercise this right within three months of the concession revocation order, any subsequent dispute is to be submitted to the Civil Court of Rome.

### **Article 9 *bis* –Termination of the agreement**

1. Without prejudice to Article 9 above, the Concessionaire will have the right, in compliance with the principle of reliance, to receive an indemnification/compensation from the Grantor in any event of withdrawing, revocation and rescission of the Agreement, including because of the Grantor's breach and/or early termination of the agreement, even if unwillingly caused by the Grantor's actions, including of an extraordinary and not predictable nature, such as substantial changes to the legislative or regulatory framework.
2. In this case – without prejudice to the Grantor taking over all of the Concessionaire's assets and liabilities and those relating to this agreement – the

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indemnification/compensation referred to under paragraph 1 above that the Concessionaire must provide the Grantor an amount corresponding to the current net value of the operating revenues, which could be forecast on the date of the notice of termination of the agreement, until the concession expires, net of the related costs, costs, charges, investments and taxes which could be forecast in the same period, discounted at a market rate of return comparable and increased by the taxes that the Concessionaire must pay on receipt of the amount from the Grantor, reduced by:

- (i) the financial net borrowing assumed by the Grantor as at the date of the transfer; and
  - (ii) the cash flow from the management received by the Concessionaire whilst performing the ordinary management from the date of the measure of termination of the agreement to the date of transfer of the concession.
3. If the parties fail to reach an agreement regarding the determination of the above amount, the Grantor has the right, in order to determine the amount, to start one of the conciliation procedures provided by the applicable law in force. If the Grantor does not exercise its right within three months from the notice of termination of the agreement, any consequent dispute will be submitted to the Civil Court of Rome.
  4. If the acts and/or facts indicated in paragraph 1 above do not result in the termination of the agreement, but in the automatic insertion of new provisions in the agreement, or a renegotiation obligation, at the conditions provided under the acts and/or facts and/or legislative or regulatory measure, or a renegotiation obligation whose negative outcome allows the Grantor to exercise its right to (early) terminate the agreement, in compliance with the principle of reliance, the agreement is automatically terminated after six months from the occurrence of the above acts and/or facts, unless the Grantor informs the Concessionaire, within 30 days from becoming aware of the acts and/or facts indicated above, that it wishes to accept the automatic insertion of new provisions or to renegotiate the agreement. In the event of termination – without prejudice to the Grantor taking over all of the Concessionaire’s assets and liabilities and those relating to the subject of this agreement – the Grantor must provide the Concessionaire the indemnification referred to in paragraph 2 above.
  5. It remains understood that the effectiveness of the (early) termination of the agreement under this article is subject to the payment by the Grantor to the Concessionaire of all the amounts provided in this article.

## **Section II – Economic – Financial**

### **Article 10 – Financial statements and shareholdings of the Concessionaire**

1. The Concessionaire must send the Grantor, within two months from the date of its approval, the financial statements of the previous financial year approved by the board of directors’ meeting and, if provided by law, the Concessionaire’s consolidated financial statements.

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2. The Concessionaire declares to have, from the date of signing of the agreement, shareholdings in the following companies in the amounts indicated below:
  - 2.1. Companies under Article 3, paragraph 1 of Law No. 287 of 28 April 1971, as amended by Article 19 of Law No. 136/1999:
    - Autostrada Torino-Savona S.p.A. – 99.98%
    - Tangenziale di Napoli S.p.A. – 100%
    - Società Italiana per il Traforo del Monte Bianco S.p.A. – 51%Through *Società Italiana per il Traforo del Monte Bianco S.p.A.*, it holds a 58% stake in the company *Raccordo Autostradale Valle d'Aosta S.p.A.*
    - Società Autostrada Tirrenica p.A. – 93.99%
    - Società Autostrade Meridionali p.A. – 58.98%
    - Strada dei Parchi S.p.A. – 60%
    - Tangenziale Esterne di Milano S.p.A. – 32%
    - Autostrada del Brennero S.p.A. – 5.51%
    - Pedemontana Veneta S.p.A. – 28%
    - Autovie Venete S.p.A. – 4.29%
    - Nuova Romea S.p.A. – 19.80%
  - 2.2. Companies with activities that are instrumental and/or auxiliary to the subject of the concession:
    - Pavimental S.p.A. – 71.67%
    - SPEA Ingegneria Europea S.p.A. – 100%
    - Giove Clear S.r.l. – 100%
    - Tirreno Clear S.r.l. – 100%
  - 2.3. Companies whose activity does not pertain to the subject of the concession:
    - Società Infrastrutture Toscane S.p.A. – 46%
    - Arcea Lazio S.p.A. – 34%
    - EsseDiEsse Società di servizi S.p.A. – 100%
    - IGLI S.p.A. – 33.3%
    - AD Moving S.p.A. – 75%
    - Veneto Strade S.p.A. – 5%
    - Port Mobility S.p.A. – 70%
    - Consorzio Autostrade Italiane Energia – 32.2%
    - New Pass S.p.A. – 51%
    - Bologna & Fiera Parking S.p.A. – 32.5%
3. The Concessionaire must also provide the Grantor, on the date of approval of the agreement, a breakdown of the Concessionaires' shareholders, as reported in the shareholders' ledger and in the articles of association in force.

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4. The Concessionaire must also inform the Grantor, within 30 days from the execution of the transaction, of any changes to the shareholdings listed in paragraph 2 above and, within 30 days from the date of registration in the shareholders' ledger, of any change to the shareholding composition referred to in paragraph 3 that exceeds 2%. The Concessionaire must inform the Grantor of any amendments to the articles of association within 30 days from their implementation.

### **Article 10 *bis* – Authorisations for subjective and/or objective changes to the Concessionaire**

1. Transactions that cause subjective changes to the Concessionaire or changes concerning controlling shareholdings, under Article 2359 of the Italian Civil Code, in the following companies are subject to prior authorisation from the Grantor, under penalty of revocation of the concession: Autostrada Torino Savona S.p.A., Tangenziale di Napoli S.p.A., Società Italiana per il Traforo del Monte Bianco S.p.A., Società Autostrada Tirrenica p.A., and Società Autostrade Meridionali p.A. Transactions that involve reversionary real estate registered with the land registry are also subject to prior authorisation, under penalty of revocation.
2. For the purposes of paragraph 1 above, subjective changes concerning the Concessionaire mean any merger, demerger, transfer of the company, change to the company's registered office and corporate purpose, or dissolution of the company carried out by the Concessionaire. The sale and/or placement of Autostrade per l'Italia S.p.A.'s shares on a regulated stock market does not constitute a subjective change, without prejudice to paragraphs 6 and 8 below.
3. If the Concessionaire's financial soundness indicator under Annex O of this agreement, calculated on the basis of the final data in the financial statements, corresponds to or is less than 1.6, any transfer of a shareholding, including a controlling shareholding, held by the Concessionaire in companies other than those listed in paragraph 1 above are not subject to the Grantor's prior authorisation, if this transfers, in the financial year in which they are carried out, causes the above indicator to improve. If the indicator is above 1.6, the transfer is not subject to prior authorisation, unless it causes the indicator to drop below 1.6. If the financial statements for the financial year in question state that the transactions referred to in the previous paragraphs should have been subject to prior authorisation and this did not occur, the fine specified in the technical specifications attached to this agreement will be applied to the Concessionaire, without prejudice to the Concessionaire's obligation to restore the financial soundness indicator to the previous level in the case referred to in the first paragraph, or to 1.6 in the case referred to in the second paragraph above.
4. Transactions that result in the Concessionaire's acquisition of shareholdings, including controlling shareholdings, without prejudice to the obligation of communication under Article 10, paragraph 4 of this agreement, are not subject to the Grantor's prior authorisation. If the consideration set for the transaction referred to in the previous



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paragraph is more than EUR 50 million and the financial soundness indicator, provided in Annex O to this Agreement, calculated on the basis of the final data in the financial statements for the financial year in which the acquisition occurred, is lower than 1.6, the Concessionaire must restore the indicator to a minimum of 1.6.

5. In the cases under paragraphs 3 and 4 above, the restore obtained through capital increases or transactions aimed at restoring financial soundness, and must be completed within 6 months from the date of approval of the financial statements, under penalty of revocation of the concession.
6. Under penalty of revocation of the concession, the Concessionaire must always remain, in accordance with Article 2359 of the Italian Civil Code, under the control of a party that meets the following requirements and assumes the following obligations:
  - (a) suitable capitalisation, i.e., a net worth, as reported on the last approved and certified financial statements of the financial year, of at least EUR 10 million for each percentage point of shareholding in the Concessionaire's capital;
  - (b) registered office, or residence if a natural person, in a country that is not included on the lists of countries with a privileged fiscal regime, as specified in Articles 110 and 167 of the consolidated law on income tax ("*testo unico sulle imposte dirette*");
  - (c) the Concessionaire's registered office is maintained in Italy, without prejudice to paragraphs 1 and 2 above, including for tax reasons, and technical and organisational abilities of the Concessionaire are maintained, as provided by Article 3, paragraph 1 of this agreement, by formally undertaking to guarantee the Concessionaire the means necessary to fulfil the obligations under the agreement and its annexes, by acting to the best of its abilities for this purpose; and
  - (d) an administrative body composed, to the extent required, by directors and auditors who meet the professional requirements and, if necessary, independence requirements under Legislative Decree No. 58 of 1998 and who also meet the integrity requirements necessary to be listed on the stock exchange in accordance with the legislation of the country where the company has its registered office.
7. Without prejudice to paragraphs 2 and 10 of this article, the Concessionaire must notify the Grantor, with all necessary details, of any transaction as a result of which the Concessionaire cannot be controlled in accordance with Article 2359 of the Italian Civil Code and which, therefore, renders paragraph 6 inapplicable. The transaction is subject to the Grantor's prior authorisation, to be given within 30 days of the Concessionaire's notice.
8. The Concessionaire, under penalty of revocation of the concession, must promptly provide the Grantor all the information necessary to verify that the requirements are still met and that the obligations referred to in this article are still complied with. In the event of a change of control, the Grantor must submit any objections within 30 days from the receipt of the above information. Once that term expires without the Grantor having raised any objections, the obligation referred to in the previous paragraph is considered

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fulfilled.

9. For the purposes of this Article, prior authorisation procedure means the procedure provided in accordance with the directive issued by the Ministry of Infrastructure, in agreement with the Ministry of Economy and Finance, dated 20 July 2007, published in the Official Gazette of the Italian Republic No. 224 of 26 September 2007.
10. It remains understood that any transaction carried out by the parent companies of the Concessionaires' parent company and/or actions concerning the disposal of shares in the Concessionaire's parent company does not constitute a change of control and is not, therefore, subject to authorisation or similar measures.

### **Article 11 – Financial plan**

1. The financial plan, drafted in accordance with the CIPE resolution of 20 December 1996, of Directive No. 283 of 1998 issued by the Ministry of Public Works together with the Ministry of the Treasury, Budget and Economic Planning on 20 October 1998 and the unified model under the decree issued by the Ministry of Public Works, together with the Ministry of the Treasury, Budget and Economic Planning on 15 April 1997, contained in Annex E, constitutes an integral part of this agreement. The Concessionaire updates the financial plan every five years, by 30 September 2012 and by 30 September of the final year of every five-year period, for the sole purpose of adjusting the provisional values contained in the plan, including the traffic estimates in Annex H. This update does not rebalance the financial plan, realign prices or amend the provisions of this agreement. Therefore, the new single agreement to be consequently entered into will be a purely acknowledgment agreement, except as explained in paragraphs 2 and 3 of this article.
2. The Concessionaire is entitled to resubmit the financial plan and request a revision of the conditions of this agreement in the event of force majeure, and to submit a new extraordinary investment plan, such as new motorway stretches and major road works that significantly change the supply system to users.
3. The Grantor is entitled to request the Concessionaire, in the event of force majeure, to submit within a given deadline a new financial plan and a review of the conditions of this agreement.
4. In the cases referred to in paragraphs 2 and 3 above, in compliance with Article 2, paragraphs 82 et seq. of Law Decree No. 262 of 3 October 2006, converted with amendments into Law No. 286 of 24 November 2006, as subsequently amended and supplemented, the content of this agreement is reviewed within six months from the date of the requested review, according to the criteria given in CIPE Directive No. 39/2007, in order to maintain the same economic conditions of the Concessionaire as those in place before the date the confirmed force majeure events occurred.
5. Without prejudice to the expiry of the concession specified in Article 4, for the purposes

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of Article 5 of this Agreement, the financial plan, contained in Annex E, can be updated with an agreement between the parties, with an extension of the term as necessary, considering also the other context elements, to allow the financial amortisation of any works that are under concession to be completed.

6. The construction risk and any higher costs of all the works mentioned in letters a) and b) from Ca) to Cg) and Ch10) referred to in Article 2.2., which are already the subject of the agreement of 4 August 1997, will be borne by the Concessionaire, without any exception.
7. The Grantor has the right to cancel some of the works outlined in paragraph 6 above, due to them being objectively impossible to carry out and/or authorise, by identifying additional new works to carry out to replace those cancelled, it being understood that the Concessionaire will not bear any costs or obtain any benefits as a result of the cancellation. In this case a new single agreement will be entered into with identical content to this agreement, except for the replacement of the cancelled works with the new works to be carried out without any obligation to rebalance the financial plan. The single agreement that is entered into will be approved by a decree of the Ministry of Infrastructure in agreement with the Ministry of Economy and Finance, without the need for the CIPE's approval.

### **Article 12 – Allocation of financial benefits from the delayed execution of investments**

1. In the event of delays in implementing the investment programme compared to the forecasts contained in Annex L, for works not specifically remunerated by the tariff, the financial benefits connected to lower expenditure will be set aside in an expressly indicated specially named equity reserve. This reserve will become available to the Concessionaire when the investment amount envisaged in Annex L is achieved, following orders received from the Grantor, which will have to be given within 30 days from the date of the Concessionaire's notice in this respect. In case of failure to respond by the Grantor within this period, these reserves will become automatically available.
2. With regard to the new works mentioned in Article 2, regulated by CIPE resolution no. 39 of 15 June 2007, the Concessionaire agrees to set aside annually on the liabilities side of the balance sheet the amount resulting from any failure or delay in executing the works compared to the forecasts made in the financial economic plan, as detailed in Annex L.

### **Article 13 – Allocation of traffic risk**

1. When updating the financial plan, at the end of each five-year period the cumulative difference between the traffic registered at the end of the five years compared to the forecasts given in Annex Q (containing traffic forecasts given in the fourth additional agreement) will be calculated.
2. Where an average annual variation is registered within the period of more than 1% compared to the traffic forecasts provided in Annex Q, due to higher operating costs generated by the increase in traffic, the financial economic benefit, net of taxes and fees for the concession, exceeding the above limit of 1% will be set aside in a special fund as

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follows: the excess traffic between 1% and 1.5% will be set aside in the amount of 50%, and the excess traffic of over 1.5% must be set aside in the amount of 75%. The methodology is provided in Annex Q. This fund may, on the Grantor's recommendation, be used to finance new works agreed to be carried out on the network under concession, identified in agreement with the Concessionaire.

### Article 14 – Other investments

Within the scope of Article 2.2., the item “Other works”, letter C provides for works whose amount is specified in the table included in the financial economic plan under the item “adjustment and enhancement of the motorway network, strengthening of the local systems of links to the motorway network, improvement of access to port hubs and to minor investments, including automated stations”.

In the event that, for whatever reason, it is not possible to carry out one or more of the above works, the Grantor and the Concessionaire will jointly identify, in a specific report, special works that must be taken to replace the cancelled works, without prejudice to the total amount indicated in the table referred to above that is contained in the financial plan.

The identification of the works included under the item “Other works” in the table referred to above that is contained in the financial plan will be carried out in agreement between the Grantor and the Concessionaire by means of a specific report.

It is understood that the works, as agreed above, will be subsequently approved by a special decree of the Ministry of Infrastructure.

### Article 15 – Obligation to develop preliminary planning

The Concessionaire undertakes to develop the preliminary planning of the strengthening of the motorway stretches listed below, identified based on traffic forecasts and the need to ensure an adequate level of capabilities and services in 2020. Without prejudice to the total amount, the Grantor may change the list of priorities, based on an update to the analysis and on a change to the foreseeable infrastructure assets, by a decree issued by the Ministry of Infrastructure. For this purpose, the Concessionaire, on the Grantor's request, must provide the Grantor all information about traffic levels and forecasts of evolution:

- IV lane A1 Modena Nord-Piacenza Sud
- III lane A1 Incisa-Valdarno
- IV lane A1 San Cesareo-Colleferro
- IV lane A1 Colleferro-Frosinone
- III lane A12 Torreimperia-S. Marinella
- III lane A13 Ferrara-Bologna
- III lane A13 Padua Sud-Monselice
- IV lane A14 Dir. Ravenna-Bologna S. Lazzaro
- III lane A11 Florence-Pistoia

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- III lane A11 Pistoia-Montecatini
- IV lane A1 Milan sud-Lodi
- Road Junction of Casalecchio

The above works have an estimated cost of EUR 5 billion.

Once the preliminary project is approved, the Grantor can ask the Concessionaire to develop the final plans and the Study of Environmental Impact.

At the end of the authorisation procedures (Assessment of the Environmental Impact “*Valutazione di impatto ambientale*” and Services Conference “*Conferenza di Servizi*”) and on the basis of a specific plan for each of the works listed above, prepared in accordance with CIPE Directive No. 39/2007, the Grantor may request that that work be included in the investment commitments. In this case, the Grantor and the Concessionaire shall enter into a new single agreement without rebalancing the financial plan. This agreement will be identical in content and form to this agreement, except for the inclusion of the new works in Article 2 above and the addition, in the annexes to the financial plan, of a specific plan for the economic and financial coverage of the related investments, to the extent these are not covered by Article 13, to be guaranteed through specific tariff increases and through the K component, which supplements the revision formula of the weighted average tariff in the first paragraph of Article 19. The new single agreement will be approved by a decree issued by the Ministry of Infrastructure, in agreement with the Ministry of Economy and Finance, without the need for CIPE approval.

If no agreement is reached on the inclusion in the investment commitments, the costs incurred by the Concessionaire for the preliminary planning will not be remunerated.

### **Article 16 – Concession fees**

The Concessionaire is required to pay eligible parties a fixed annual fee corresponding to 2.4% of the net income generated by the tolls. If, as a result of regulatory provisions, the amount of the concession fees is increased or similar forms of taxation are introduced and imposed on the Concessionaire, the Concessionaire will be entitled to receive a specific tariff increase to cover the increased outlay.

### **Article 17 – Sub-concession fees**

1. The Concessionaire shall pay the Grantor an annual fee corresponding to 5% of all revenues deriving from sub-concessions on motorways and from other related activities, including those concerning the commercial exploitation of telecommunications networks.
2. The annual fee referred to in paragraph 1 corresponds to 20% for new concessions that are approved the Concessionaire to provide:
  - new services, which have yet to come into operation as at the effective date of this agreement, to be carried out in the service areas of the motorway network under concession; and

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- services on the newly built service areas, which have yet to come into operation as at the effective date of this agreement.

### Article 18 – Toll rates

1. The average toll per kilometre, weighted by the number of kilometres travelled by vehicles belonging to specific classes and types of toll, is calculated as at 1 October 2007, based on the provisions under Annex A.
2. The toll for each distance is determined by the number of kilometres attributed to the same distance multiplied by the relevant unitary rate, to which increases and taxes provided by applicable law are added.
3. The Concessionaire can, for commercial purposes, for toll collection or for motorway use optimisation, without prejudice to the weighted average tariff per kilometre, divide up the toll pricing system set out in Annex A by introducing differentiated basic rates, if appropriate, according to the journey, road characteristics, vehicle type, period of travel and payment method. These differentiated rates may also become effective during the year and, in any case, must ensure that the relationship between the maximum and minimum basic rate is no higher than 1.5 times for each toll class and no more than 3 times between different classes.
4. If the Concessionaire intends – in accordance with the terms stated in the previous paragraph – to divide the tolling price system by introducing differentiated basic rates, it must submit, for the Grantor's approval, a rate adjustment project that guarantees the Concessionaire equal revenues from tolls in the time frame in which it proposes implementing the differentiated rates. If the implementation of the differentiated rates causes an imbalance to toll revenues, the rate adjustment, with the resulting rate levels, will be recalculated to ensure equal revenues for the future – starting from the year following the launch of the rate adjustment. The rate readjustment methods, pending a specific CIPE resolution in this respect, will be defined by the Grantor and the Concessionaire.

### Article 19 – The revisional formula of the weighted average tariff

1. The weighted average of motorway tolls is annually adjusted based on the following formula:

$$\Delta T = 70\% * \Delta P$$

where

$\Delta T$  is the weighted rate changes; and

$\Delta P$  represents the inflation rate of the last 12-month period referred to in Article 20.

In the above formula, weighted rate change means the rate set by CIPE resolution no. 213/97:

[For the formula, please refer to page 27 on the Italian version of this Agreement]

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Where P and Q indicate the rates per kilometre and the kilometres travelled by vehicles belonging to the first basic rate class, respectively. Superscripts indicate variables relating to the period of application of the formula, whereas t-1 indicates the previous reporting period.

2. The following amounts are added to the above change to the toll rates:
  - (a) the component X investments, exclusively applied for the remuneration, in accordance with Article 21 of the “Works under the fourth additional agreement” referred to in Article 2, paragraph 2, letter d; and
  - (b) the K component, exclusively applied for the remuneration of new investments not included as at 3 October 2006 in the financial plan in force on that date, referred to in Article 2, paragraph 2, letter e.
3. For the purposes of the calculations,  $\Delta T$ ,  $\Delta P$ , X investments and K are to be considered in terms of percentage units, rounded up or down to the nearest hundredth fraction.

### Article 20 – Inflation rate

The inflation rate referred to in the variable  $\Delta P$  of the revisional formula of the weighted average tariff, provided in Article 19, is the average annual variation in consumer prices for the entire resident population (NIC Index) most recently recorded and published by ISTAT (the Italian National Institute of Statistics), referring to the period 1 July to 30 June before the date of submission of the tariff adjustment request referred to in Article 23.

Once this single agreement is in force, the Concessionaire waives its right to recover the difference between the actual inflation and the inflation for the last five years between 2003 and 2007.

### Article 20 bis – Quality indicator

1. The Concessionaire is required to detect and inform the Grantor of the following quality indicators:
  - IS security indicator, which measures the overall performance of the infrastructure and its management in terms of security. It is determined in light of the accident rate (TI) measured on motorway stretches; and
  - the indicator of the structural state of IPAV paving, which takes into consideration their roughness (IA1) and regularity (IA2) of the paving as they represent the superstructure of greater consumption of the road, which is mainly related to its technical safety and comfort of travel.

Both IS and IPAV indicators are assessed in the motorway stretches divided by stretches of plains and mountain routes, in order to determine the quality variations referred to in Annex C.

2. The Concessionaire, in addition to the quality indicators referred to in the previous paragraph, undertakes to agree with the Grantor on the introduction of any new sector

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quality indicators based on objective and verifiable findings, for the purposes of applying penalties referred to in Annex N.

### Article 21 – Component X investments

1. For the economic and financial coverage of “works under the fourth supplementary agreement” referred to in Article 2, specific tariff increases will be established through the X investments component, which supplements the revisional formula of the weighted average tariff referred to in Article 19. These specific increases are calculated according to the method described in Annex B.
2. In order to ensure the economic and financial coverage of the “works under the fourth additional agreement”, the related economic and financial validation plans have been prepared and included in the financial plan (Annex E) of the agreement and with a specific amount of X investments determined for each of the works.
3. For the works whose final planning/change survey the Grantor had approved as at the date of signing of this agreement, the related validation plans are to be considered definitive. For the works for which the Concessionaire submitted to the Grantor, as at the date of signing of this agreement, surveys and reports on variations that have not been approved by ANAS yet, the related validation plans will be adjusted, for the purposes of carrying out a final readjustment of the X investments component in light of the amount included in the Grantor’s approval of the surveys and reports on variations, which simultaneously approves the related validation plan.

For works for which the project has yet to be approved, the related validation plans will be adjusted, once again for the purposes of carrying out a final readjustment of the X investments component, once the final plan, following the approval by the Services Conference (“*Conferenza dei servizi*”) or CIPE for the works referred to in Law No. 443/2001, is approved by the Grantor that simultaneously approves the validation plan. The adjustment of the validation plans, which are drawn up based on the most recent traffic estimates used to prepare the latest financial plan, will be carried out by the Grantor and the Concessionaire according to the methodology set out in Annex B, in light of the cost of the works approved by the Grantor and on the traffic estimates contained in Annex H. The adjustment of the validation plan will be formalised within 30 days from the date of approval mentioned above, through a report signed by the parties and will result in the simultaneous replacement of the validation plan annexed to the financial plan. The above validation plans will be included in the five-year update to the financial plan. Consequently, any and all cost increases for the execution of the investment, compared to the amount specified in the final validation plan, will be borne by the Concessionaire, except in cases where any increase in construction costs is caused by force majeure or acts of third parties that are not attributable to the Concessionaire (Annex B). If the Concessionaire bears, as reported in the final balance sheet, investment costs relating to the individual validation plan of less than 80% of the lowest cost incurred net of taxes, the amount of new investments subject to remuneration in accordance with Article 22 of this agreement will reduce.



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4. The X investments component is calculated so that the current amount of the incremental revenues forecast until the end of the concession, according to the drafting methods of the financial plan in Annex E, corresponds to the current amount of the investments and higher costs and expenses, discounting the amounts at a remuneration rate of 7.18%.
5. The specific amounts of the X investments component, as determined above, will contribute to determining the annual tariff variation of the weighted average tariff. The first specific amount will be applied from 1 January following the ANAS's approval of the final and/or executive plan as referred to in Article 3 above.
6. The second tariff increase will be determined by 31 October of the year the first toll increase is applied. This determination will be carried out on the basis of the gradual progress of the individual investments reported on the Concessionaire's balance sheet as at 30 September of that year or at the end of the previous quarter. The methodology used is indicated in Annex B.
7. If the works do not start by 31 October of the year following the year the first tariff increase is applied, as referred to in paragraph 5, the previously applied tariff increases will be recovered by readjusting the tariff level using the methodology in Annex B.
8. The tariff increases relating to the investment "works under the fourth additional agreement" referred to in Article 2, following those already applied in accordance with the above paragraphs of this article, will be determined annually by 31 October of each year on the basis of the gradual progress of the individual investments reported on the Concessionaire's balance sheet as at 30 September of the same year or at the end of the previous quarter, using the methodology indicated in Annex B.
9. The Grantor has the power to cancel some investments from the "works under the fourth additional agreement" referred to in Article 2 of the agreement, due to them being objectively impossible to carry out, by identifying other new works to be carried out in their place, using the methodology indicated in Article 22, it being understood that the Concessionaire must not bear any costs or obtain any benefits due to the cancellation. The single agreement will be approved by a decree issued by the Ministry of Infrastructure in agreement with the Ministry of Economy and Finance, without the need for CIPE approval.

### **Article 22 – The component of the remuneration of new investments not included as at 3 October 2006 in the financial plan in force on that date**

1. Component K, referred to in Article 19 and only applied for the remuneration of new investments that, as at 3 October 2006, had not been included in the financial plan in force on that date, is the annual percentage change to the tariff set every year to allow the remuneration of investments made in the year before the tariff was first applied. This component is determined so that the updated amount of incremental revenues forecast until the end of the regulatory period corresponds to the updated amount of the largest

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allowed costs, discounting the amounts at the appropriate remuneration rate. This remuneration on invested capital was calculated using the methodology better specified in Annex B, also taking into account CIPE resolution no. 38/2007.

2. The related economic and financial validation plans are included in the financial plan (Annex E) of the agreement and determine a specific value of the K component for each new annual investment.
3. The specific value of the K component will determine the annual tariff change to the weighted average tariff.
4. The Concessionaire will inform the Grantor of the K component by 31 October of each year. Its determination will be based on the gradual progress of the individual investments reported on the Concessionaire's balance sheet as at 30 September of the same year, or at the end of the previous quarter. The methodology used is indicated in Annex B.
5. The remuneration of the works under Article 2.2. letter E above is guaranteed by the K component in accordance with this article.
6. The remuneration of any new investments approved by the Grantor that could be necessary to comply with laws issued after 1 October 2007 concerning the construction and management of the assets under concession, or the remuneration of works other than those set out in Article 2.2 above – including those under Article 15 above – that are agreed between the parties will be guaranteed by the K component in accordance with this article.
7. In the case outlined under paragraph 6 above, and in accordance with Article 2, paragraphs 82 et seq. of Law Decree No. 262 of 3 October 2006, converted with amendments into Law No. 286 of 24 November 2006, as subsequently amended and supplemented, the parties will enter into a single agreement without rebalancing the financial plan. That agreement will have the same form and content as this agreement, without prejudice to the introduction of the new works referred to in Article 2 of this agreement, and the addition in the annexes of the financial plan of a specific plan for the economic and financial coverage of the related investments, to the extent these are not covered by Article 13, to be guaranteed through specific tariff increases and through the K component, which supplements the revision formula of the weighted average tariff in the first paragraph of Article 19. The new single agreement will be approved by a decree issued by the Ministry of Infrastructure, in agreement with the Ministry of Economy and Finance, without the need for CIPE approval..

### **Article 23 – Procedures for the annual update to the tariffs**

1. By 30 September of each year, the Concessionaire informs the Grantor of the percentage change to the tariff update, arising from the revisional formula under Article 19, paragraph 1, with the exclusion of the components set out in paragraph 4 below, which comes into

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effect from the following 1 January. At the same time, the Concessionaire also sends the Grantor all the information based on which the percentage change is calculated.

2. Within 45 days from receipt of the Concessionaire's notice mentioned under paragraph 1 above, the Grantor, after verifying the notice and in compliance with the terms under paragraph 3 below, sends the notice and its own proposal to the Ministry of Infrastructure and the Ministry of Finance and Economy, which jointly approve or reject the proposed changes with a motivated administrative regulation within 30 days from receipt of the notice. The motivated administrative regulation concerns only the verifications mentioned under paragraph 3, letters a) and b) below.
3. The verifications carried out by the Grantor concern only:
  - (a) the correctness of the values of the revisional formula and of the related counts in compliance with the criteria under Article 19; and
  - (b) the existence of serious breaches by the Concessionaire of this agreement, which the Grantor formally disputed no later than the previous 30 June.

If the Concessionaire's serious breach of its obligations under the present agreement continues, for actions ascribable to it, the Grantor may suggest the suspending the tariff adjustment until the breach is remedied.

4. The Concessionaire must inform the Grantor by 31 October of each year of both: (a) the total value of the component X investments, referred to in Article 21, resulting from the sum of each individual value of the "works under the fourth additional agreement"; and (b) the value of the K component under Article 22, both with effect from the following 1 January.
5. The Grantor, within 30 days from receipt of the notice referred to in paragraph 4 above, after verifying the correctness of the provided data, must send the notice and its own proposal to the Ministry of Infrastructure and the Ministry of Finance and Economy, which jointly approve or reject the proposed changes with a motivated administrative regulation within 30 days from receipt of the notice. The motivated administrative regulation concerns only the verifications referred to in paragraph 3, letter a) above.
6. If the administrative regulations of approval or rejection mentioned in paragraph 2 above are not expressly adopted by 31 December of the year in which the annual tariff update procedure referred to in paragraphs 1 and 4 above starts, Article 20, paragraph 1 of Law No. 241/1990 applies.
7. The Concessionaire makes the Grantor aware, within the 30 days following the date the variation to the tariff is applied each year, of the tariff handbook, which is prepared after the adjustments referred to in this article are made and applied in the same year.
8. The tariff update for 2008 was determined by the parties in accordance with Annex D.

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### Section III – Technique

#### Article 24 – Planning

1. The Concessionaire submits the plans concerning the works under Article 2, paragraph 1, letter f) to the Grantor for its examination and approval. These plans must include all the annexes required by the law in force, including the approvals, authorisations and clearances required.
2. The objects involving crossing railway lines must be previously agreed with Ferrovie dello Stato S.p.A. and with the businesses that manage the railway lines under concession.
3. The plans must also specifically indicate the features of the works and the precautions to follow when crossing watercourses and public roads, and for connections to both of these.
4. The plans take into account traffic requirements and the requirements of the authority involved in the crossings and connections mentioned above.
5. The public roads, to which the connections mentioned above are to be connected, must be able to cope with the inflow or outflow of traffic from the motorway.
6. If a connection is constructed with a national road, all works to guarantee access to it and related installation that must be implemented on the Grantor's properties are to be borne in full by the Concessionaire.
7. If a connection is constructed with a public road located at a distance of more than six kilometres and the Grantor agrees to carry out it, the related installations, as well as the expenses for the maintenance, strengthening, adjustment and management of the connection, are borne by the requesting authority for the longer distance.
8. Extra expenses for works to alter or supplement those approved in the initial plans that are requested by the authority that owns the roads concerned by the works or by other authorities, and that the Grantor agrees to carry out, are borne in full by the same requesting authorities, which also bear the indirect and maintenance costs of the works mentioned above.
9. If the Concessionaire requests advance payment of the extra expenses referred to in paragraphs 7 and 8 above, the payment is to be made based on the estimates annexed to the plans, without prejudice to the positive or negative adjustments upon closure of the final accounts.
10. The expenses for signs indicating access to the motorway placed on public roads, in agreement with the authorities that own those roads, are borne by the Concessionaire.
11. The approval of the plans and any changes to them is reserved for the Grantor.

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12. The final and executive plans, including those concerning extraordinary maintenance, and any changes to the plans, are approved by the Grantor within 90 days from their receipt. This deadline is considered interrupted when the Grantor requests that the submitted projects be amended or supplemented.
13. The amount of the general expenses relating to the plans and any changes made by the Concessionaire is established in accordance with Ministerial Decree No. 133 of 22 May 1992.

### **Article 25 – Terms for the submission of the plans**

1. The Concessionaire must fulfil its obligation under Article 24, paragraph 1 concerning the plans in compliance with the timing of each phase directly managed by the Concessionaire itself, as set out in the Time Schedule under Annex M.
2. On the Concessionaire's request and for reasons not ascribable to the Concessionaire, the Grantor will grant an extension to the terms to submit the plans.

### **Article 26 – Expropriations**

The expropriations and occupancies of land strictly necessary to carry out adjustment works on the motorways under Article 2 are carried out by the Concessionaire under its own responsibility and at its own expense. In this regard, the Concessionaire is allowed to carry out all related operations, including those replacing the purchase of real estate themselves.

### **Article 27 – Verifications and inspections**

1. Once the works under Article 2, paragraph 2 are completed, on the Concessionaire's request an inspection is carried out by officials expressly appointed by the Grantor to verify traffic safety. A report of this inspection is then prepared.
2. Only after the above inspection has results in a favourable outcome and following the Grantor's express authorisation each motorway or functional stretches of each motorway can be opened and become operational, including provisionally.
3. The inspection of the work, under the laws in force, is carried out by technical experts appointed by the Grantor. The related expenses are borne by the Concessionaire.

### **Article 28 – Supervision by the Grantor**

1. The Grantor supervises the motorway adjustment works to ensure they are carried out in a workmanlike manner, without this supervision reducing the Concessionaire's liability regarding the execution of the works. The Grantor also supervises the ordinary and extraordinary maintenance works and restoration works.

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2. If the Grantor finds that the works are carried out in contrast to paragraph 1, it informs the Concessionaire of the consequent fulfilments required.
3. The Grantor can obtain all necessary explanations regarding the works under Article 3, paragraph 1, letters f, g and h, if it so requests. The Grantor visits and supervises the works, can carry out test and experiments and take measurements and samples and anything else necessary to ascertain that the works are progressing well. The Concessionaire must provide all the means and bear all the expenses necessary to carry out the above.
4. The Grantor, for the purposes of carrying out the verification referred to in Article 3, verifies the Concessionaire's implementation of the financial plan and, in this regard, is able to consult the accounting documentation and the economic and financial results.

### Article 29 – Sanctions

1. Without prejudice to the concession revocation order referred to Article 9 above, and without prejudice to the application, including cumulatively, of the penalties under this agreement, in the event of a breach, failure to comply or an omission, including partial, of the obligations provided by law and under Annex N of this agreement, the sanctions system set out in Annex N applies. The sanctions procedure set out in Article 2, paragraph 86, letter d) of Law Decree No. 262 of 3 October 2006, converted with amendments by Law No. 286 of 24 November 2006, is governed by Law No. 689 of 24 November 1981.

### Article 30 – Penalties

In accordance with Article 2, paragraph 83, letter h) of Law Decree No. 262 of 3 October 2006, converted with amendments by Law No. 286 of 24 November 2006, as subsequently amended and supplemented, the Grantor applies the penalties set out below to the Concessionaire.

The Concessionaire is liable, in accordance with the terms below, for any delays in the performance of its planning activities compared to the forecasts set out in the Time Schedule under Annex M. The Concessionaire is not, however, liable for the time taken for the issuance of the authorisations and approvals of the plans, including those necessary for the settlement of any litigation brought during those phases.

It is understood that the length of each individual phase that is directly managed by the Concessionaire was determined on the assumption that the planning activities are carried out directly by the Concessionaire itself, through its own design company by means of the so-called “similar control” (“*controllo analogo*”).

Therefore, except for any extensions granted by the Grantor, the Grantor may apply a penalty to the Concessionaire amounting to EUR 25,000 for each month of delay in each individual phase that is directly managed by the Concessionaire compared to the terms specified in the

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planning of the works listed in the Time Schedule under Annex M of this agreement. More specifically:

- (a) submission by the Concessionaire, for the Environmental Impact Assessment (“*Valutazione d'impatto ambientale*”) and of the Services Conference (“*Conferenza dei Servizi*”), of the final project to the competent authorities (the Ministry of the Environment and the Ministry of Infrastructure);
- (b) submission by the Concessionaire of the final project to ANAS for ANAS’ final approval (with reference to the period running from the date the Concessionaire receives the decree closing the Services Conference (“*Conferenza di Servizi*”) or a comparable administrative regulation) If the Services Conference (“*Conferenza di Servizi*”) closes with some stipulations that require other necessary administrative regulations, the term will be suspended for the time necessary for the administrative regulations to be issued; and
- (c) submission by the Concessionaire to ANAS of the executive project for ANAS’ approval (with reference to the period running from the date the Concessionaire receives ANAS’ approval on the final project).

The timing concerning the completion of the works referred to in Article 2.2. of this agreement, as set out in the Time Schedule, is mandatory for the Concessionaire with regard to works for which the executive project has already been approved the Grantor.

For other works for which this approval has not yet been granted, the timing for their execution as indicated in the Time Schedule will be changed and set after approval is received and will, consequently, become mandatory for the Concessionaire.

However, it is understood that the Time Schedule of the works, as defined above, may be subject to change as a consequence of any surveys and reports on variations conducted by the Concessionaire, in accordance with Article 132 of Legislative Decree No. 163/2006 and approved by the Grantor.

The changes to the Time Schedule at the conditions mentioned above be included in the related annex to the financial plan when its five-year update occurs.

Without prejudice to the above, for each month of delay (rounded down) for the completion of the works set out in Article 2.2. of this agreement compared to the date indicated in the Time Schedule – as adjusted over time as mentioned above – under Annex M of this agreement (with reference to the period running from the date of the delivery of the works to the contractor), the Grantor may, unless the delay is due to reasons not ascribable to the Concessionaire or is caused by a third party, apply a penalty of EUR 25,000 for each of the works.

For all other penalties, please refer to the technical specifications under Annex N.

## Section IV – Management and Control

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### **Article 31 – The Concessionaire’s powers**

1. The Concessionaire has the following powers:
  - (a) the power to apply and update the tariffs referred to under Articles 18 and 19, collect the related tolls, whose revenues remain at its disposal, without prejudice to Article 16 of this agreement;
  - (b) the power to award, in compliance with Article 33, paragraph 1, letter d) below, for consideration and on the basis of competitive, transparent, non-discriminatory and properly publicised procedures the concessions relating to the occupation and use of the motorway areas and related appurtenances, with reference to newly built areas or areas that will be available on the expiry dates referred to in Annex G, and to collect the related revenues; and
  - (c) the power to carry out advertising activities in compliance with the law.
2. The exercise of the above powers that involve motorway areas and related appurtenances cannot create undertakings to third parties lasting more than the remaining time of the motorway concession, save for a specific agreement entered into with the Grantor.
3. The exercise of the power under paragraph 1 cannot in any case entail changes to the execution of this agreement. All works that, for the management of the concessions referred to under paragraph 1, are constructed by third parties on areas that are motorway appurtenances are transferred in good condition to the Grantor’s ownership when the concession expires. The agreements through which the Concessionaire awarded the concessions under paragraph 1, letter b) to third parties must set out a similar obligation of the third parties to the Grantor.
4. The Concessionaire has the power to lay down, in agreement with the Grantor, the precautions that have to be followed by the Concessionaires of public transport services that drive along on all or part of the motorways under Article 2 by the parties under paragraph 1, letter b) and by third parties that carry out the instrumental and auxiliary activities under Article 3, paragraph 1, letter d).
5. The Concessionaire, provided it complies with procedural and substantive legislation, has the power to install and provide telecommunications networks, including to provide motorway management services and user assistance services.

### **Article 32 – Exemptions benefits**

1. The Concessionaire, subject to the Grantor’s prior approval, has the power to grant particular categories of users special types of subscription for transit on the motorways or other benefits, in order to facilitate toll collection or increase traffic on the motorways.
2. The Concessionaire is prohibited from issuing passes for free circulation on the motorways except for reasons relating to servicing the motorways themselves.



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3. The parties exempted by the law in force are not required to pay tolls.
4. The Concessionaire may issue authorisations for single trips on the motorway solely for reasons relating to servicing the motorways or for promotional reasons.
5. When issuing authorisations for exceptional transport, the Concessionaire must, in accordance with Legislative Decree No. 285 of 30 April 1992 (“New Highway Code”), as subsequently amended and supplemented, demand compensation due for exceptional wear and tear of the motorway, with reference to surplus weight, the vehicle type, the total distance to be covered or to the time for which the authorisation is requested, and the refund of all procedural charges relating to the issuance of the authorisation and any traffic organisation necessary to carry out the transport.

### **Article 33 – Regulation of the works and of the supply of good and services**

1. The Concessionaire undertakes, for the awarding of works, services and supplies, to comply with the law in force at the time of the awarding, as subsequently supplemented with interpretative acts, and therefore to:
  - 1a) act, in all respects, as a contracting authority in accordance with Article 85, letter c) of Law Decree No. 262/2006, as subsequently amended and supplemented, in the awarding of works, supplies and services directly relating to the management of the granted motorways – save what is provided in Annex Q – and, in this role, award the related contracts, in compliance with the code of public contracts relating to works, services and supplies under Legislative Decree No. 163 of 12 April 2006, as subsequently amended;
  - 1b) submit the schemes of the calls for tenders concerning the award procedures mentioned under point 1a) above to the Grantor for its approval. The Grantor must issue its decision within 30 days from receipt. If this term expires without the Grantor having provided a response, Article 20 of Law No. 241 of 7 August 1990 applies;
  - 1c) award the contracts relating to the tender procedures referred to in the points above, through Tender Committees appointed by the Infrastructure Minister, without prejudice to the supervisory powers of the Authority under Article 6 of Legislative Decree No. 163 of 12 April 2006, as subsequently amended and supplemented;
  - 1d) award the services regarding the distribution of carbon lubricants and the commercial and recreational activities carried out in the service areas, in derogation from what is set out above, in accordance with the principles contained in Article 1, paragraph 939 of Law No. 296 of 27 December 2006, which are listed below, and in accordance with any guidelines that are issued by the Italian Competition Authority:
    - prior check of the fulfilment of the technical, organisational and economic requirements of the competitors to ensure an adequate level and regularity of the service, in accordance with the sector-specific laws and regulations;

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- assessment of the bids submitted by the competitors with the purpose of enhancing the efficiency, quality and variety of the services, the investments in line with the duration of the contracts to be awarded and the plurality of the trademarks involved. The tender procedure must ensure that more importance is given to the technical-commercial project than to the economic conditions proposed; and
  - contractual models suitable to ensure the bid is competitive in terms of quality, availability of the services and prices of the oil and non-oil products; and
- 1e) prohibit participation in the tender procedures for the assignment of public works to companies, in any way connected with the Grantor, that carried out the related planning of the works;
2. If the Concessionaire wishes to establish or keep, at its own expense, a radio information service for drivers, it must call a public tender to award the management of that service, based on the technical specifications and contractual requirements aimed at appropriately executing the service and containing objective, non-discriminatory criteria.
  3. With reference to the reserves to be determined relating to the works under concession, the amounts paid by the Concessionaire to the contractor or the supplier are also included in the overall investment, provided no specific liabilities have arisen for the Concessionaire as a consequence of:
    - (a) reserves determined by administrative way by the Concessionaire based on the approval of an inspector from the inspection committee, or through an arbitration or legal proceedings; or
    - (b) reserves submitted in an arbitration or legal proceedings, but defined through a settlement on the basis of the Grantor's approval.

### **Article 34 – Works, goods and services directly produced**

1. In compliance with the laws in force, in the event of intra-group transfers of services and goods concerning the motorways under concession, the Grantor verifies that the transfer prices of these goods and services are not higher than the market prices. Market price means the price or consideration generally paid for goods or services of the same or similar type at free market conditions in the nearest time and place.

To determine the market price, reference is made, to the extent possible, to the lists or tariffs of the party that provided the goods and services or, in the absence thereof, to the “*mercuriar?*” or to the lists of the chambers of commerce and to the professional tariffs, taking into account the discounts for use.
2. In compliance with the laws in force, if the Concessionaire wishes the works under concession, including maintenance works, to be carried out by its affiliates, the price of the contracts awarded to those affiliates is determined using the amounts included on the latest ANAS price list, with the application of the average depreciation for similar works awarded, through tender procedures, in the last six months by the Concessionaire and

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Grantor.

### Article 35 – Services charter

1. The Concessionaire, in accordance with the Prime Ministerial Decrees of 27 January 1994 and 30 December 1998 and to the Legislative Decree of 30 July 1999, must carry out the drafting and the annual update to the services charter (“*carta dei servizi?*”), indicating the quality standards under Annex N and the penalties that the Grantor can apply to the Concessionaire as a consequence of any breaches and misalignments, in accordance with Annex N.
2. The amounts promised and achieved for each indicator must be submitted electronically every year to ANAS, in compliance with the procedure set out.

### Section V – Final provisions

#### Article 36 – Domicile

For the purposes of this agreement, the Concessionaire elects its domicile in Roma – Via Bergamini, 50.

#### Article 37 – Jurisdiction

Any disputes arising between the parties in connection with the interpretation and application of this agreement will be submitted to the Court of Rome.

#### Article 38 – Waiver of litigation

1. The parties, by signing this agreement and from the date of its effectiveness, in accordance with Article 39 below, waive all litigation pending between them and any other right or claim connected to that litigation.
2. The parties also waive their right, including for the future, to bring any other litigation, and to enforce any other rights and/or claims concerning the litigation as waived above.
3. From the date of effectiveness of this agreement, in accordance with Article 39 below, the parties undertake to formalise before the competent jurisdictional authorities the above waivers, in accordance with the procedures set out, with each party bearing its own legal costs.

#### Article 39 – Condition precedent

The effectiveness of this agreement is subject to the issuance of an approval decree in accordance with the law.

#### Article 40 – Registration

## Courtesy translation

This agreement is subject to registration. All expenses due in relation to the signing of this agreement are to be borne by the Concessionaire, with no exclusions or exceptions.

### **Article 41 – Temporary rules**

From the date of signing of this standard single agreement, the parties undertake, with regard to their powers and rights, available or exercisable before the courts, to immediately suspend the trial activities and to request the judge to suspend the time limits for the following six months.

This standard single agreement consists of 39 typed pages, including this page written on 16 lines, and includes 16 annexes.

Read, confirmed and signed by the parties.

12 October 2007

The Grantor, Anas S.p.A.

The Concessionaire, Autostrade per l'Italia S.p.A.